IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

OP.No. 8348 of 2001(R)

PETITIONERS:

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1. V.I. KUNJAPPAN
   THAITHARA, MADHURAVELI,
   AYAMKANDY P.O., KOTTAYAM.

*2. CHINNAMA, W/O. LATE V.I. KUNJAPPAN,
   THAITHARA, MADHURAVELI
   AYAMKANDYP.O., KOTTAYAM

*3. SULOCHANA, D/O. LATE V.I. KUNJAPPAN -DO-

*4. SHYLA P.K., D/O. -DO- -DO-

*5. SHIBU P.K., S/O. -DO- -DO-

*6. SHEJI P.K., D/O. -DO- -DO-

*7. SHYJU P.K., S/O. -DO- -DO-

ADDL. PETITIONERS 2 TO 7 ARE IMPLEADED AS PER ORDER DT. 2.8.07 IN I.A. NO. 10239/07.

BY ADV. SRI.R.K.MURALEEDHARAN
SRI.R.PARTHASARATHY

RESPONDENTS:

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1. THE DEPUTY DIRECTOR OF EDUCATION, KOTTAYAM

2. THE SUB TREASURY OFFICER, KADUTHURUTHY

BY GOVERNMENT PLEADER SRI. A.J. VARGHESE

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO 8348/01

ORDER IN C.M.P. NO. 13398/01 IN OP NO. 8348/01

DISMISSED

2.8.07 SD/- A.K. BASHEER, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE ORDER SANCTIONING PENSIONARY BENEFITS

EXT.P2. COPY OF THE GRATUITY PAYMENT ORDER ISSUED BY ACCOUNTANT GENERAL, KERALA

EXT.P3. COPY OF THE LETTER ISSUED BY 2ND RESPONDENT TO SUB TREASURY OFFICER, KADUTHURUTHY

EXT.P4. COPY OF THE LETTER DT. 24.10.00

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

O.P. NO. 8348 OF 2001

Dated this the 2nd day of August, 2007

J U D G M E N T

Petitioners are stated to be the legal heirs of a deceased Government employee. The deceased while working as a peon in Govt. High School, Kaduthuruthy, took voluntary retirement from service on December 31, 1999.

2. According to the petitioners, the deceased had put in 33 years of qualifying service. Ext.P1 shows that his pensionary benefits had been quantified by the Accountant General and he was found entitled to get Rs.98,225/- as Death Cum Retirement Gratuity and Rs.96,115/- as commuted value of pension. Thus a total sum of Rs. 1,94,340/- was payable to the deceased employee towards his pensionary benefits.

3. This writ petition was filed in the year 2001 by the employee himself with a prayer to issue a writ of certiorari to quash Ext.P3 letter dated February 19, 2001 issued by respondent No.1. In the said communication, he was informed that Non Liability Certificate could not be issued in view of pendency of a total liability of Rs.1,39,688/- against him towards the three items referred to therein.

4. I do not deem it necessary to deal with the above aspect any further since it is admitted by the petitioners that certain liabilities were in

fact outstanding against the deceased employee. According to the petitioners, the liability payable to the Federal Bank had already been cleared, as revealed from Ext.P4 in the year 2000. As regards the other liability payable to the Kerala State Development Corporation for Converted Christians and Reserved castes, it is contended by respondent No.1 that the deceased employee had given written consent to recover the same from his pensionary benefits. It is also averred by respondent No.1 in the counter affidavit that the balance amount payable to the employee deducting the liability referred to in Ext.P3 had already been disbursed to Sri. Kunjappan, on March 28, 2001 itself as directed by this Court and a revised liability had been issued to him for an amount of Rs. 1,28,905/-.

5. That being the position, I do not think that any relief can be granted to the petitioners at this stage. It will be open to them to work out their remedies before the controlling officer after satisfying the said authority by discharging the entire liabilities. On doing so, the amount which has been withheld shall be released to the petitioners, if they are entitled to get the same.

The writ petition is closed in the above terms.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007